

Remarks

In the Office Action, claims 1-19 were rejected under the judicially-created doctrine of obviousness-type double patenting. Further, claims 1-13, 18, and 19 were rejected under 35 U.S.C. § 102(b), and claims 14-17 were rejected under 35 U.S.C. § 103(a).

Claims 1-19 are currently pending in the instant application.

I. Double Patenting Rejections

In the Office Action, claims 1-13, 18 and 19 were rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-16 of U.S. Patent 6,086,567 (“‘567 patent”) in view of U.S. Patent 4,936,833 (“Sams ‘833”). Further, claims 14 and 15 were rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-16 of the ‘567 Patent in view of Sams ‘833, and further in view of U.S. Patent 4,865,591 (“Sams ‘591”). In addition, claims 16 and 17 were rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-16 of the ‘567 Patent in view of Sams ‘833, further in view of U.S. Patent 5,728,074 (“Castellano”). Applicants respectfully disagree.

A. Claim 1 Is Not Made Obvious by the ‘567 Patent in View of Any of the Other Cited Prior Art References

Claim 1 is directed to an administering apparatus comprising, in part, a drive device that “forms an indicator of the dosage scale, in order to indicate the initial position of the drive device in the transparent area of the casing, relative to said dosage marks.”

The ‘567 patent, in contrast, does not disclose a drive device that forms an indicator of the dosage scale, in order to indicate the initial position of the drive device in the transparent area of the casing, relative to said dosage marks. The ‘567 patent teaches an injection device for injecting a selectable dose of a liquid substance from an ampoule located in an ampoule holder. The device in the ‘567 patent does not teach or suggest a component configured to indicate an initial position of a drive device relative to dosage marks.

Further, none of Sams ‘833, Sams ‘591, or Castellano teach or suggest such a component. In fact, none of the cited references, alone or in combination, teach or suggest an administering apparatus comprising, in part, a drive device that “forms an indicator of the dosage scale, in order to indicate the initial position of the drive device in the transparent area of the casing,

relative to said dosage marks.” Reconsideration and withdrawal of the rejection is respectfully requested.

B. Claims Depending from Claim 1 Are Patentable

Because claims 2-17 depend directly or indirectly from claim 1 and incorporate all the limitations of claim 1, the above argument obviates the bases for these grounds of rejection. Thus, claims 2-17 are not made obvious by the ‘567 patent in view of any of the other cited prior art references. Reconsideration and withdrawal of the rejections is respectfully requested.

C. Claim 18 Is Not Made Obvious by the ‘567 patent in View of Any of the Other Cited Prior Art References

Claim 18 is directed to an administering apparatus comprising, in part, a drive device that “forms an indicator relative to the dosage scale to indicate the initial position of the drive device.”

The ‘567 patent, in contrast, does not disclose a drive device that forms an indicator relative to the dosage scale to indicate the initial position of the drive device. The ‘567 patent teaches an injection device for injecting a selectable dose of a liquid substance from an ampoule located in an ampoule holder. The device in the ‘567 patent does not teach or suggest a component configured to indicate an initial position of a drive device.

Further, none of Sams ‘833, Sams ‘591, or Castellano teach or suggest such a component. Thus, none of the cited references, alone or in combination, teach or suggest an administering apparatus comprising, in part, a drive device that “forms an indicator relative to the dosage scale to indicate the initial position of the drive device.” Reconsideration and withdrawal of the rejection is respectfully requested.

D. Claim Depending from Claim 18 Is Patentable

Because claim 19 depends directly or indirectly from claim 18 and incorporates all the limitations of claim 18, the above argument obviates the basis for this ground of rejection. Thus, claim 19 is not made obvious by the ‘567 patent in view of any of the other cited prior art references. Reconsideration and withdrawal of the rejection is respectfully requested.

II. § 102(b) Rejections

Claims 1-13, 18 and 19 were rejected under 35 U.S.C. § 102(b) as being anticipated by Sams ‘833.

A. Claim 1 Is Not Anticipated by Sams '833

As noted above, claim 1 is directed to an administering apparatus comprising, in part, a drive device that “forms an indicator of the dosage scale, in order to indicate the initial position of the drive device in the transparent area of the casing, relative to said dosage marks.”

Sams '833, in contrast, does not disclose a drive device that forms an indicator of the dosage scale, in order to indicate the initial position of the drive device in the transparent area of the casing, relative to said dosage marks. The Sams '833 component associated with reference number 64, which is asserted in the Office Action to be a “drive device,” is actually identified as a “one-way mechanism actuating member.” See Sams '833, col. 6, l. 28. The actuating member is a component of a “one-way mechanism that allows the plunger to advance but not to retract as long as the cartridge holder is mounted to the collar. However, when the cartridge holder is removed from the collar to replace the cartridge, this one-way mechanism is released, to allow the plunger to be retracted into the dispensing unit.” Id. at col. 6, ll. 9-15. The actuating member 64 does not form an indicator of the dosage scale, in order to indicate the initial position of the drive device in the transparent area of the case. Thus, Sams '833 does not teach or suggest the claimed drive device of claim 1. Reconsideration and withdrawal of the rejection is respectfully requested.

B. Claims Depending from Claim 1 Are Patentable

Because claims 2-17 depend directly or indirectly from claim 1 and incorporate all the limitations of claim 1, the above argument obviates the bases for these grounds of rejection. Thus, claims 2-17 are not anticipated by Sams '833. Reconsideration and withdrawal of the rejections is respectfully requested.

C. Claim 18 Is Not Anticipated by Sams '833

As noted above, claim 18 is directed to an administering apparatus comprising, in part, a drive device that “forms an indicator relative to the dosage scale to indicate the initial position of the drive device.”

Sams '833, in contrast, does not disclose a drive device that forms an indicator relative to the dosage scale to indicate the initial position of the drive device. As discussed above, the one-way mechanism actuating member in Sams '833 is a component of a “one-way mechanism that allows the plunger to advance but not to retract” unless the cartridge holder is removed, at which point the “one-way mechanism is released, to allow the plunger to be retracted into the

dispensing unit.” Id. at col. 6, ll. 9-15. The actuating member 64 does not form an indicator relative to the dosage scale to indicate the initial position of the drive device. Thus, Sams ‘833 does not teach or suggest the claimed drive device of claim 18. Reconsideration and withdrawal of the rejection is respectfully requested.

D. Claim Depending from Claim 18 Is Patentable

Because claim 19 depends directly or indirectly from claim 18 and incorporates all the limitations of claim 18, the above argument obviates the basis for this ground of rejection. Thus, claim 19 is not anticipated by Sams ‘833. Reconsideration and withdrawal of the rejection is respectfully requested.

III. § 103(a) Rejections

Claims 14 and 15 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Sams ‘833 in view of Sams ‘591. Further, claims 16 and 17 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Sams ‘833 in view of Castellano. Applicants respectfully disagree.

A. Claim 1 Is Not Made Obvious by Sams ‘833 in View of Either Sams ‘591 or Castellano.

As discussed above, claim 1 is directed to an administering apparatus comprising, in part, a drive device that “forms an indicator of the dosage scale, in order to indicate the initial position of the drive device in the transparent area of the casing, relative to said dosage marks.”

As also discussed above, Sams ‘833 does not teach or suggest the drive device of claim 1. The actuating member of Sams ‘833 is a component of a “one-way mechanism. The actuating member 64 does not form an indicator of the dosage scale, in order to indicate the initial position of the drive device in the transparent area of the case. Thus, Sams ‘833 fails to teach or suggest the claimed drive device of claim 1.

Sams ‘591 fails to remedy the deficiencies of Sams ‘833. In fact, Sams ‘591 discloses the same actuating member (identified by reference number 64) as taught by Sams ‘833. See Sams ‘591, col. 11, ll. 4-34, and Fig. 3. Thus, Sams ‘591 fails to teach or suggest a drive device that “forms an indicator of the dosage scale, in order to indicate the initial position of the drive device in the transparent area of the casing, relative to said dosage marks,” as claimed in claim 1.

Castellano also fails to remedy the deficiencies of Sams ‘833 and Sams ‘591. Castellano discloses a medical injection device having a “microprocessor coupled to the injector that

records the date, the time, and the amount of each injection.” See Castellano, Abstract. The reference is cited in the Office Action solely for use of a 27-gauge needle. However, Castellano does not teach or suggest a drive device that “forms an indicator of the dosage scale, in order to indicate the initial position of the drive device in the transparent area of the casing, relative to said dosage marks.”

Thus, Sams ‘833, either alone or in combination with Sams ‘591 or Castellano, fails to teach or suggest the invention of claim 1. Reconsideration and withdrawal of the rejections is respectfully requested.

B. Claims Depending from Claim 1 Are Patentable

Because claims 2-17 depend directly or indirectly from claim 1 and incorporate all the limitations of claim 1, the above argument obviates the bases for these grounds of rejection. Thus, claims 2-17 are not made obvious by Sams ‘833 in view of Sams ‘591 or Castellano. Reconsideration and withdrawal of the rejections is respectfully requested.

Conclusion

Applicants respectfully submit that claims 1-19 are in condition for allowance.

No new claim fees have been generated by this communication, but a petition to extend the time to respond is being submitted herewith, along with the requisite fee. The Commissioner is hereby authorized to charge any deficiencies and credit any overpayments associated with the petition or this communication to Deposit Account No. 04-1420.

This application is in allowable form, and reconsideration and allowance are respectfully requested

Respectfully submitted,

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